

Nuclear Regulatory Commission

§ 95.37

(c) Access to matter which is National Security Information at NRC-licensed facilities or NRC-certified facilities by authorized representatives of IAEA is permitted in accordance with § 95.36.

[59 FR 48975, Sept. 23, 1994, as amended at 72 FR 49563, Aug. 28, 2007]

§ 95.36 Access by representatives of the International Atomic Energy Agency or by participants in other international agreements.

(a) Based upon written disclosure authorization from the NRC Office of Nuclear Material Safety and Safeguards that an individual is an authorized representative of the International Atomic Energy Agency (IAEA) or other international organization and that the individual is authorized to make visits under an established agreement with the United States Government, an applicant, licensee, certificate holder, or other person subject to this part shall permit the individual (upon presentation of the credentials specified in § 75.8(c) of this chapter and any other credentials identified in the disclosure authorization) to have access to matter classified as National Security Information that is relevant to the conduct of a visit or inspection. A disclosure authorization under this section does not authorize a licensee, certificate holder, or other person subject to this part to provide access to Restricted Data.

(b) For purposes of this section, classified National Security Information is relevant to the conduct of a visit or inspection if—

(1) In the case of a visit, this information is needed to verify information according to § 75.8 of this chapter; or

(2) In the case of an inspection, an inspector is entitled to have access to the information under § 75.8 of this chapter.

(c) In accordance with the specific disclosure authorization provided by the Division of Security Operations, licensees, certificate holders, or other persons subject to this part are authorized to release (*i.e.*, transfer possession of) copies of documents that contain classified National Security Information directly to IAEA inspectors and other representatives officially designated to request and receive classi-

fied National Security Information documents. These documents must be marked specifically for release to IAEA or other international organizations in accordance with instructions contained in the NRC's disclosure authorization letter. Licensees, certificate holders, and other persons subject to this part may also forward these documents through the NRC to the international organization's headquarters in accordance with the NRC disclosure authorization. Licensees, certificate holders, and other persons may not reproduce documents containing classified National Security Information except as provided in § 95.43.

(d) Records regarding these visits and inspections must be maintained for 5 years beyond the date of the visit or inspection. These records must specifically identify each document released to an authorized representative and indicate the date of the release. These records must also identify (in such detail as the Division of Security Operations, by letter, may require) the categories of documents that the authorized representative has had access and the date of this access. A licensee, certificate holder, or other person subject to this part shall also retain Division of Security Operations disclosure authorizations for 5 years beyond the date of any visit or inspection when access to classified information was permitted.

(e) Licensees, certificate holders, or other persons subject to this part shall take such measures as may be necessary to preclude access to classified matter by participants of other international agreements unless specifically provided for under the terms of a specific agreement.

[62 FR 17694, Apr. 11, 1997, as amended at 64 FR 15652, Apr. 1, 1999; 68 FR 41222, July 11, 2003; 72 FR 49563, Aug. 28, 2007; 73 FR 78614, Dec. 23, 2008; 74 FR 62686, Dec. 1, 2009]

§ 95.37 Classification and preparation of documents.

(a) *Classification.* Classified information generated or possessed by a licensee, certificate holder, or other person must be appropriately marked. Classified material which is not conducive to markings (*e.g.*, equipment) may be exempt from this requirement.